

By: Sheets

H.B. No. 2929

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage for brain injury.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1352.001, Insurance Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) Notwithstanding any provision in Chapter 1551, 1575, 1579, or 1601 or any other law, this chapter applies to:

(1) a basic coverage plan under Chapter 1551;

(2) a basic plan under Chapter 1575;

(3) [~~2~~] a primary care coverage plan under Chapter 1579; and

(4) [~~3~~] basic coverage under Chapter 1601.

(c) This chapter applies to group health coverage made available by a school district in accordance with Section 22.004, Education Code.

(d) Notwithstanding Section 172.014, Local Government Code, or any other law, this chapter applies to health and accident coverage provided by a risk pool created under Chapter 172, Local Government Code.

SECTION 2. Section 1352.003, Insurance Code, is amended by amending Subsections (c) and (d) and adding Subsections (c-1) and (c-2) to read as follows:

(c) A health benefit plan may not include, in any annual or

1 lifetime limitation on the number of days of acute care treatment
2 covered under the plan, any post-acute care treatment covered under
3 the plan. Any limitation imposed under the plan on days of the
4 post-acute care treatment required by this chapter is subject to
5 Subsections (c-1) and (c-2) and must be clearly and separately
6 stated in the plan using language that specifically identifies each
7 therapy or treatment or rehabilitation, testing, remediation, or
8 other service described by Subsections (a) and (b) that is subject
9 to the limitation. A provision that purports to limit the number of
10 days of treatment under a health benefit plan that does not
11 specifically identify a particular therapy or treatment or testing,
12 remediation, or other service described by Subsection (a) or (b) is
13 void as applied to that therapy, treatment, or service. This
14 subsection does not authorize a limitation on the number of days of
15 treatment that is otherwise prohibited by state or federal law.

16 (c-1) Notwithstanding Subsection (c), a health benefit plan
17 may not limit the number of days of covered post-acute care,
18 including any therapy or treatment or rehabilitation, testing,
19 remediation, or other service described by Subsections (a) and (b),
20 or the number of days of covered inpatient care to the extent that
21 the treatment or care is determined to be medically necessary as a
22 result of and related to an acquired brain injury. The insured's or
23 enrollee's treating physician shall determine whether treatment or
24 care is medically necessary for purposes of this subsection in
25 consultation with the treatment or care provider, the insured or
26 enrollee, and, if appropriate, members of the insured's or
27 enrollee's family. The determination is subject to review under

1 Section 1352.006.

2 (c-2) A health benefit plan must provide coverage for
3 custodial care for an insured or enrollee if custodial care is
4 determined to be the appropriate level of care for the insured or
5 enrollee as a result of and related to an acquired brain injury.
6 Notwithstanding Subsection (c), a health benefit plan may not limit
7 the number of days of covered custodial care under this subsection.
8 The insured's or enrollee's treating physician shall determine
9 whether custodial care is the appropriate level of care for
10 purposes of this subsection in consultation with the care provider,
11 the insured or enrollee, and, if appropriate, members of the
12 insured's or enrollee's family. The determination is subject to
13 review under Section 1352.006 as if it were a determination of
14 medical necessity.

15 (d) Except as provided by Subsection (c), (c-1), or (c-2), a
16 health benefit plan must include the same payment limitations,
17 deductibles, copayments, and coinsurance factors for coverage
18 required under this chapter as applicable to other similar coverage
19 provided under the health benefit plan.

20 SECTION 3. Section 1352.007, Insurance Code, is amended by
21 adding Subsections (c), (d), (e), and (f) to read as follows:

22 (c) The issuer of a health benefit plan, including a
23 preferred provider benefit plan or health maintenance organization
24 plan, that contracts with a hospital to provide services under this
25 chapter to insureds and enrollees may not, solely because a
26 facility is an assisted living facility, refuse to contract with
27 that facility to provide services that are:

1 (1) required under this chapter; and

2 (2) within the scope of the license of the assisted
3 living facility.

4 (d) The issuer of a health benefit plan that requires or
5 encourages insureds or enrollees to use health care providers
6 designated by the plan shall ensure that the services required by
7 this chapter that are within the scope of the license of an assisted
8 living facility are made available and accessible to the insureds
9 or enrollees at an adequate number of assisted living facilities.

10 (e) A health benefit plan may not treat care provided in
11 accordance with this subchapter as custodial care solely because it
12 is provided by an assisted living facility.

13 (f) To ensure the health and safety of insureds and
14 enrollees, the commissioner by rule may require that an assisted
15 living facility that provides covered post-acute care other than
16 custodial care under this chapter to an insured or enrollee with
17 acquired brain injury meet specific criteria in addition to
18 licensure or obtain a nationally recognized accreditation
19 specified by the commissioner.

20 SECTION 4. Chapter 1352, Insurance Code, as amended by this
21 Act, applies only to a health benefit plan delivered, issued for
22 delivery, or renewed on or after January 1, 2014. A health benefit
23 plan delivered, issued for delivery, or renewed before January 1,
24 2014, is governed by the law in effect immediately before the
25 effective date of this Act, and that law is continued in effect for
26 that purpose.

27 SECTION 5. This Act takes effect September 1, 2013.